

REMARKS

Claims 1-22 are pending in this application and stand rejected. Reconsideration and reexamination of the application is respectfully requested in view of the following remarks.

Rejection under 35 U.S.C. §101

Claims 1-22 have been rejected under 35 U.S.C. §101 as being being directed to non-statutory subject matter. This rejection is respectfully traversed.

The Examiner claims that the invention claimed in the present application “does not apply, involve, use, or advance the technological arts since all of the recited steps can be performed in the mind of the user or by use of a pencil and paper. However, the Examiner does acknowledge that the “recited process produces a useful, concrete, and tangible result.”

As the United State Patent and Trademark Office has stated and the Federal circuit has confirmed, “[w]hen an abstract idea is reduced to a practical application, the abstract idea no longer stands alone if the practical application of the abstract idea produces a useful, concrete and tangible result. This then satisfies the requirements of 35 U.S.C. 101.” Vincent Millin, Tariq Hafiz, Jim Trammell and Robert Olszewski, 35 U.S.C. 101 Training Materials, USPTO, at <http://www.uspto.gov/web/menu/pbmethod/trangmaterials.ppt> (citing *In re Alappat*, 31 USPQ 2d 1545, 1558 (Fed. Cir. 1994) and *State Street Bank & Trust Co. v. Signature Financial Group, Inc.*, 47 USPQ 2d 1596, 1601-02 (Fed. Cir. 1998)). Moreover, the USPTO has stated that “[a] method or process remains statutory even if some or all of the steps therein can be carried out: in the human mind, with the aid of the human mind, or because it may be necessary for one performing the method or process to think *In re Musgrave*, 341 F.2d 882, 893; 167 USPQ 280, 289 (CCPA 1970). The key is that a useful, concrete and tangible result must be produced.” *Id.* The Examiner acknowledges that the recited process in the present application produces a “useful, concrete and tangible result.”

All independent claims in the present application require that a product with a particular design result therefrom. Applicant believes that this is precisely what the Examiner acknowledges is the "useful, concrete and tangible result." Per the requirements set forth by the USPTO and acknowledged by the Federal Circuit, Claims 1-22 satisfy the requirements set forth by 35 U.S.C. §101 and therefore the Examiner's rejection is improper.

Rejections under 35 U.S.C. §103

Claims 1-22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Information on Daimler-Chrysler hereinafter known as Chrysler in view of an article "192-195 Chrysler Mini-Vans" hereinafter known as VMR. This rejection is respectfully traversed.

It is necessary that Chrysler and VMR teach or suggest every element of the invention in this application for a §103 rejection to be applicable. Neither Chrysler nor VMR teach or suggest every element of the invention and thus the Examiner's §103 rejection is improper.

Chrysler teaches making products, namely cars, each of which have different features and functions. Within each product group, Chrysler affords the end user different styles and options available to the customer. Chrysler does not disclose a product that is produced and designed in response to a desired personality established by the consumer as is recited in the claims for this application.

Furthermore, VMR discloses designing a vehicle, namely the Chrysler minivans, with certain features and options and how the Chrysler design has evolved. The article also opines on Chrysler's effect on the entire minivan market. VMR does not teach or suggest the process of creating desired brand personalities with certain visual characteristics in a product as determined by the consumer as is claimed in the present application.

For these reasons, the Examiner's §103 rejections of Claims 1-22 over Chrysler in view of VMR are erroneous and should be withdrawn.

CONCLUSION

For the reasons discussed above, Applicants believe that claims 1-22 are in condition for immediate allowance. It is respectfully submitted that all of the pending claims in the application are allowable over the prior art of record. Early notification of allowability is respectfully requested.

If there are any questions regarding this matter, please contact the undersigned attorney.

Respectfully submitted,



Dated: December 22, 2004

Robert O. Rice, Reg. No. 26,574
Telephone: (269) 923-3870

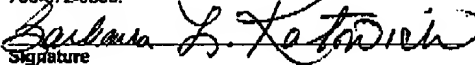
WHIRLPOOL PATENTS COMPANY
500 Renaissance Drive - Ste. 102 MD750
St. Joseph, Michigan 49085

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is, on the date shown below, being:

☐ deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to the Commissioner for Patents, Alexandria, VA, 22313-1450.

☒ transmitted by facsimile to the Patent and Trademark Office, to Examiner Andrew J. McAleavey, c/o Central Facsimile Number 703-872-9306.


Signature

Date: December 22, 2004

Barbara L. Katowich
(type or print name of person certifying)